

passed. (*f*) Such statements of facts, of a public nature, upon which the government had acted, must, for all such public purposes, be taken to be true. But then no particular fact can be assumed or declared by the legislature to be true so far as to affect the rights of a person, or the title of an individual to any property. Not because it would be indecent or improper to question the motives or purity of the legislative body, who must always be presumed to act rightly and to set forth the truth, until the contrary is clearly shewn; but because, in all such cases, it may, without any impeachment of their integrity, be presumed that they have been misled or misinformed. As where a statute recited, that a certain person had been attainted, when in truth such was not the fact, the party was not thereby concluded and prevented from shewing the truth. (*g*) And so where the preamble of an act of parliament recited, that the plaintiff's father had not been married, yet he was allowed to prove that he had been married; and so to obtain a verdict, founded upon the fact of his legitimacy, in direct opposition to the recital in the act of parliament. (*h*) But the parliament of England, on principles of state policy, not applicable to cases of a civil nature, have, in many instances, passed bills of attainder, by which facts have been assumed to be true, without the formality of proof, and individuals have been attainted, condemned to death, and their estates confiscated without even calling on them to answer. It cannot be denied, that for all such purposes, that that legislative body has the power to assert the truth of any facts to the destruction of an individual without leaving to him the means of controverting what had been thus asserted in any judicial manner or form whatever. (*i*)

Even in England there are many cases in which the courts of justice found their judgments upon considerations of public utility, looking to politics, or that which is deduced from the frame of the government of the country. (*j*) Here it has become very common of late to speak of the *sovereign power*, and of the *sovereignty* exercised by our *government*. These words do not, however, occur either in the constitution of this state, or in that of the Union. The words *sovereign* and *sovereignty* refer to him, or that body of men who possess the supreme power of the state; who

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(*f*) *Rex v. Sutton*, 4 Ma. & Sel. 532.—(*g*) *The Earl of Leicester v. Heydon*, 1 Plow. 398.—(*h*) *Bull. N. P.* 112; *Co. Litt.* 360.—(*i*) 4 Inst. 37; *Com. Dig. tit. Parliament*, H. 6.—(*j*) *Earl of Chesterfield v. Janssen*, 2 Ves. 156.